

10-06-05

PTO/SB/64 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: *Treado et al.*Application No.: *101773.077*Art Unit: *2877*Filed: *Feb 5, 2004*

Examiner:

Title: *Near Infrared Chemical
Imaging Microscope**Lauchman, Layla G*

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):

has been filed previously on _____
 is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____
 has been paid previously on _____
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

(Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. § 1.137(b)
(PTO/SB/64) [11-3.1]—page 1 of 2)

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

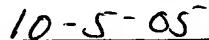
A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

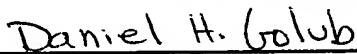
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



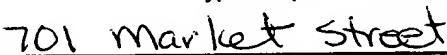
Signature



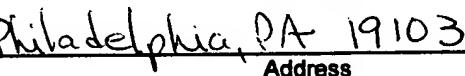
Date



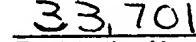
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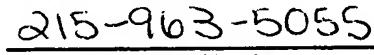
Address



Address

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: Information Disclosure Statement and Application Data Sheet


Registration Number, if applicable



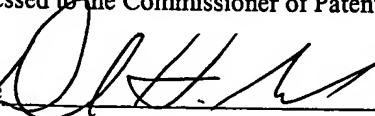
Telephone Number

EXPRESS MAIL CERTIFICATE (37 C.F.R. § 1.10)Express Mail Label No. EV554289743USDate of Deposit October 5, 2005

I hereby certify that this paper, and the papers and/or fees referred to herein as transmitted, submitted or enclosed, are being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Name Daniel H. Golub

Signature



(Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 C.F.R. § 1.137(a)
(PTO/SB/64) [11-3.1]—page 2 of 2)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: *Treloar et al.*
 Application No.: 10/1773,077 Group No.: 2877
 Filed: 02/05/04 Examiner: *Lauchman, Layla G.*
 For: *Near Infrared Chemical Imaging Microscope*
 Issue Date: _____

Patent*: _____ Issue Date: _____

Reexamination No.: _____ Issue Date: _____

Reissue: _____ Issue Date: _____

* NOTE: Insert name(s) of inventor(s) and title for patent.

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

**STATEMENT UNDER 37 C.F.R. § 3.73(b)—
 ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION**

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
*(When using Express Mail, the Express Mail label number is mandatory;
 Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

with sufficient postage as first class mail.

37 C.F.R. § 1.10 *

as "Express Mail Post Office to Addressee"

Mailing Label No. E155428974345 (mandatory)

TRANSMISSION

facsimile transmitted to the Patent and Trademark Office, (703) _____

Signature

(type or print name of person certifying)

Date: 16/05/05

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Statement under 37 C.F.R. § 3.73(b) — Establishing Right of Assignee to Take Action [16-16]—page 1 of 4)

NOTE: 37 CFR 3.73(b) states: "When an assignee seeks to take action in a matter before the Office with respect to a patent application, . . ., patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Commissioner. Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office."

NOTE: "Section 3.73(b) is amended to remove the sentence requiring an assignee to specifically state that the evidentiary documents have been reviewed and to certify that title is in the assignee seeking to take action. The sentence is deemed to be unnecessary in view of the amendment to §§ 1.4(d) and 10.18." Notice of Oct. 10, 1997, 62 Fed. Reg. 53,131, at 53,174.

1. The assignee(s) of the entire right, title and interest hereby seek(s) to take action in the PTO in this matter.

IDENTIFICATION OF ASSIGNEE

2. ChemImage Corporation
Name of assignee
corporation
Type of assignee, e.g., corporation, partnership, university, government agency, etc.

PERSON AUTHORIZED TO SIGN

3. Wesley Hatchison
(type name of person authorized to sign on behalf of assignee)
President, ChemImage Corporation
Title of person authorized to sign

NOTE: The Notice of April 30, 1993 (1150 O.G. 62-64) points out:

"The statement under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following two manners if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.).

"(1) The statement may be signed by a person in the organization having apparent authority to sign on behalf of the organization. An officer (president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. A power of attorney from the inventors in an organization to a practitioner to prosecute a patent application does not make the practitioner an official of an assignee or empower the practitioner to sign the statement on behalf of the assignee.

"(2) The statement may be signed by any person, if the statement includes an averment that the person is empowered to sign the statement on behalf of the assignee and, if not signed by a registered practitioner, the statement must be in oath or declaration form. Where a statement does not include such an averment, and the person signing does not hold a position in the organization that would give rise to a presumption that the person is empowered to sign the statement on behalf of the assignee, evidence of the person's authority to sign will be required."

[Author's Note: The requirement for an oath or declaration for this statement by a person not a registered practitioner was rescinded by the rules effective December 1, 1997.]

(complete the following, if applicable)

I, the person signing below, state that I am empowered to sign this statement on behalf of the assignee.

BASIS OF ASSIGNEE'S INTEREST

Ownership by the assignee is established as follows:

A.

- An assignment from the inventor(s) of the matter identified above, which was recorded in the PTO at
Reel 014302, Frame 0906
- An assignment (document) separately being submitted for recordal herewith.

AND/OR

B. A chain of title from the inventor(s) to the current assignee as shown below:

1. From: Patrick J. Treado

Name of inventor(s)

To: ChemImage Corporation

Recorded in PTO: Reel
014302, Frame 0906

2. From: Matthew Nelson

Name of inventor(s) or assignee

To: ChemImage Corporation

Recorded in PTO: Reel
014302, Frame 0906

3. From: Sgtt Keitzer

Name of inventor(s) or assignee

To: ChemImage Corporation

Recorded in PTO: Reel
014302, Frame 0906

(check item below, and add details, if applicable)

Additional documents in the chain of title are listed in the attached Supplemental Sheet.

COPIES OF DOCUMENTS IN CHAIN OF TITLE

(complete this item, if copies are being sent)

Copies of the assignment(s) or other document(s) in the chain of title are attached as follows:

A 1 2
 B 1 2 3

Wesley Hutchinson

(Signature of authorized person)

Wesley Hutchinson

(type or print name of authorized person)

President, ChemImage Corporation

Title of authorized person

D. H. H.

SIGNATURE OF PRACTITIONER

Daniel H. Golub

(type or print name of practitioner)

1701 Market Street

P.O. Address

Philadelphia, PA 19103

Reg. No.: 33,701

Tel. No.: (215) 963-5055

Customer No.: